(3)

IN THE HIGH COURT OF JUDICATURE CHHATTISGARH

AT BILASPUR

W.P.NO. 219 / 2006 SINGLE BENCH

Petitioner :

Smt. Dropati Sahu
W/o Shri Puhup Ram Sahu,
Aged about 31 years,
R/o DNK Colony Kondagaon,
Dist : Bastar – (C.G.)

R.R. No. 20/4/06
Presented by Shri Sharma Bhatt
dated 20.4.06

Versus

Respondents :

1. State of Chhattisgarh
Through - The Secretary
Panchayat & Social Welfare Deptt,
Mantralaya, Raipur-(C.G.)

2. The Chief Executive Officer,
Zila Panchayat, Jagdalpur

3. The Chief Executive Officer,
Janpad Panchayat, Kondagaon,
Dist : Bastar-(C.G.)

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WRIT PETITION U/A 226 / 227 OF THE CONSTITUTION OF INDIA

A.F.R.

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, CJ.

Writ Petition No. 2119 of 2006

PETITIONER Smt. Dropati Sahu W/o Shri Puhup Ram Sahu, aged about 31 years, R/o DNK Colony Kondagaon, Dist: Bastar – (C.G.)

Vs.

RESPONDENTS

1. State of Chhattisgarh through – The Secretary Panchayat & Social Welfare Deptt, Mantralaya, Raipur – (C.G.)
2. The Chief Executive Officer, Zila Panchayat, Jagdalpur
3. The Chief Executive Officer, Janpad Panchayat, Kondagaon, Dist: Bastar – (C.G.)

Writ Petition No. 2431 of 2006

PETITIONER Manoharlal, 27 years, S/o Shri Shiv Ram, R/o Palli, Teh-Kondagaon, Dist: Bastar – (C.G.)

Vs.

RESPONDENTS

1. State of Chhattisgarh through – The Secretary Panchayat & Social Welfare Deptt, Mantralaya, Raipur – (C.G.)
2. The Chief Executive Officer, Zila Panchayat, Jagdalpur
3. The Chief Executive Officer, Janpad Panchayat, Darbha, Dist: Bastar – (C.G.)

Writ Petition No. 2414 of 2006

PETITIONER Ram Kumar Kosre S/o Shri B.R. Kosre, 28 years R/o Village Kusma, Teh – Kondagaon, Dist: Bastar – (C.G.)

Vs.

RESPONDENTS

1. State of Chhattisgarh through – The Secretary Panchayat & Social Welfare Department, Raipur, Mantralaya, Raipur – (C.G.)
2. The Chief Executive Officer, Zila Panchayat Bastar Jagdalpur Dist: Bastar

Writ Petition No. 2415 of 2006

PETITIONER Pushpendra Kurrey, S/o Shri H.P. Kurrey, 25 years R/o Hospital Ward Kondagaon, Dist: Bastar – (C.G.)

Vs.

RESPONDENTS

1. State of Chhattisgarh through – The Secretary Panchayat & Social Welfare Department, Raipur, Mantralaya, Raipur – (C.G.)
2. The Chief Executive Officer, Zila Panchayat Bastar Jagdalpur Dist: Bastar

Writ Petition No. 2416 of 2006

PETITIONER Ku. Shivani Burman, D/o Late Shri J.N. Burman, 27 Yrs, R/o Kondagaon, Dist: Bastar – (C.G.)

Vs.

RESPONDENTS

1. State of Chhattisgarh through – The Secretary Panchayat & Social Welfare Department, Raipur, Mantralaya, Raipur – (C.G.)
2. The Chief Executive Officer, Zila Panchayat Bastar Jagdalpur Dist: Bastar

Writ Petition No. 2417 of 2006

PETITIONER Rajendra Singh Baghel, S/o Shri S.R. Baghel, 28 years R/o Village Sonabal, Tehsil - Kondagaon, Dist: Bastar – (C.G.)

Vs.

RESPONDENTS

1. State of Chhattisgarh through – The Secretary Panchayat & Social Welfare Department, Raipur, Mantralaya, Raipur – (C.G.)
2. The Chief Executive Officer, Zila Panchayat Bastar Jagdalpur Dist: Bastar

Writ Petition No. 2412 of 2006

PETITIONER Krishna Chandra Sharma S/o Shri B.P. Sharma, 28 years R/o Village Makdi, Teh.-Kondagaon, Dist: Bastar – (C.G.)

Vs.

RESPONDENTS	1.	State of Chhattisgarh through – The Secretary Panchayat & Social Welfare Department, Raipur, Mantralaya, Raipur – (C.G.)
	2.	The Chief Executive Officer, Zila Panchayat Bastar Jagdalpur Dist: Bastar

Writ Petition No. 21 22 of 2006

PETITIONER		Bhupat Ram Sahu S/o Shri Prushotam Sahu, aged about 24 years, R/o of Village Kosmanda, PO – Gourmati Distt. Kabirdham (C.G.) Vs.
RESPONDENTS	1.	State of Chhattisgarh through – The Secretary Panchayat Department D.K.S. Bhawan Raipur – (C.G.)
	2.	Chief Executive Officer, Janpad Panchayat Sahspur, lohara District – Kabirdham
	3.	Janpad Panchayat, Sahaspur Lohara, through:- its President, Janpad Panchayat Sahspur Lohara, District Kabirdham

Writ Petition No. 2121of 2006

PETITIONER		Rajeshwari Kaushik D/o Shri Palan Kaushik, aged about 21 years, R/o of Village Gochhiya Distt-Kabirdhan (C.G.) Vs.
RESPONDENTS	1.	State of Chhattisgarh through –Secretary Panchayat Department D.K.S. Bhawan Raipur – (C.G.)
	2.	Chief Executive Officer, Janpad Panchayat Sahspur, lohara District – Kabirdham
	3.	Janpad Panchayat, Sahaspur Lohara, through:- its President, Janpad Panchayat Sahspur Lohara, District Kabirdham

Writ Petition No. 2125 of 2006

PETITIONER		Smt. Chetna Namdev W/o A.K. Namdev aged about 35 years, R/o DNK Colony Kondagaon, Dist : Bastar – (C.G.) Vs.

RESPONDENTS

1. State of Chhattisgarh through – The Secretary Panchayat & Social Welfare Deptt, Mantralaya, Raipur – (C.G.)
2. The Chief Executive Officer, Zila Panchayat, Jagdalpur
3. The Chief Executive Officer, Janpad Panchayat, Kondagaon, Dist: Bastar – (C.G.)

Writ Petition No. 2124 of 2006

PETITIONER

Jayanti Mala D/o ShriRadha Krishna Banjare, aged about 23 years, R/o Adka Chepra Para, Kondagaon, Dist: Bastar – (C.G.)

Vs.

RESPONDENTS

1. State of Chhattisgarh through – The Secretary Panchayat & Social Welfare Deptt, Mantralaya, Raipur – (C.G.)
2. The Chief Executive Officer, Zila Panchayat, Jagdalpur
3. The Chief Executive Officer, Janpad Panchayat, Kondagaon, Dist: Bastar – (C.G.)

Writ Petition No. 2123 of 2006

PETITIONER

Seema Korram W/o Hemal Ram Korram, aged about 24 years, R/o Mardapal, Kondagaon, Dist: Bastar – (C.G.)

Vs.

RESPONDENTS

1. State of Chhattisgarh through – The Secretary Panchayat & Social Welfare Deptt, Mantralaya, Raipur – (C.G.)
2. The Chief Executive Officer, Zila Panchayat, Jagdalpur
3. The Chief Executive Officer, Janpad Panchayat, Kondagaon, Dist: Bastar – (C.G.)

Writ Petition No. 2118 of 2006

PETITIONER

Smt. Hiramani W/o Chetman Markam, aged about 23 years, R/o Palari, Kondagaon, Dist: Bastar – (C.G.)

Vs.

RESPONDENTS

1. State of Chhattisgarh through – The Secretary Panchayat & Social Welfare Deptt, Mantralaya, Raipur – (C.G.)

2. The Chief Executive Officer, Zila Panchayat, Jagdalpur

3. The Chief Executive Officer, Janpad Panchayat, Kondagaon, Dist: Bastar – (C.G.)

Writ Petition No. 2117 of 2006

PETITIONER Smt. Varsha Sharma W/o Shri Shiv Prakash Sharma, aged about 38 years, R/o Civil Lines Kondagaon, Dist: Bastar – (C.G.)

Vs.

RESPONDENTS

1. State of Chhattisgarh through – The Secretary Panchayat & Social Welfare Deptt, Mantralaya, Raipur – (C.G.)

2. The Chief Executive Officer, Zila Panchayat, Jagdalpur

3. The Chief Executive Officer, Janpad Panchayat, Kondagaon, Dist: Bastar – (C.G.)

Writ Petition No. 2184 of 2006

PETITIONER Amrit Lal Sahu S/o Johan Lal Sahu, aged about 20 years, R/o Village Badgaon, Block – Makdi, Dist: Bastar – (C.G.)

Vs.

RESPONDENTS

1. State of Chhattisgarh through – The Secretary Panchayat & Social Welfare Deptt, Mantralaya, Raipur – (C.G.)

2. The Chief Executive Officer, Zila Panchayat, Jagdalpur

3. The Chief Executive Officer, Janpad Panchayat Makdi, Dist: Bastar – (C.G.)

Writ Petition No. 2185 of 2006

PETITIONER Ku. Mahanti Pandey D/o Shri Rameshwar Pandey, aged about 23 years, R/o Village Barkai, Tehsil - Kondagaon, Dist: Bastar – (C.G.)

Vs.

RESPONDENTS

1. State of Chhattisgarh through – The Secretary Panchayat & Social Welfare Deptt, Mantralaya, Raipur – (C.G.)

2. The Chief Executive Officer, Zila Panchayat, Jagdalpur

3. The Chief Executive Officer, Janpad Panchayat Makdi, Dist: Bastar – (C.G.)

Writ Petition No. 2186 of 2006

PETITIONER Lalita Sahu D/o Shri Kripa Ram Sahu, aged about 22 years, R/o Vikash Nagar, Tehsil - Kondagaon, Dist: Bastar – (C.G.)

Vs.

RESPONDENTS

1. State of Chhattisgarh through – The Secretary Panchayat & Social Welfare Deptt, Mantralaya, Raipur – (C.G.)

2. The Chief Executive Officer, Zila Panchayat, Jagdalpur

3. The Chief Executive Officer, Janpad Panchayat Makdi, Dist: Bastar – (C.G.)

Writ Petition No. 2413 of 2006

PETITIONER Mukesh Kumar Pandey, S/o Rameshwar Pd. Pandey, 26 Yrs R/o Village Barkai, Teh. - Kondagaon, Dist: Bastar – (C.G.)

Vs.

RESPONDENTS

1. State of Chhattisgarh through – The Secretary Panchayat & Social Welfare Deptt, Mantralaya, Raipur – (C.G.)

2. The Chief Executive Officer, Zila Panchayat Bastar Jagdalpur Dist: Bastar

Writ Petition No. 2436 of 2006

PETITIONER Megnath Sahu, 21 years S/o Shri Jagdish Rao Sahu, R/o Dau Kapa, Tehsil – Lormi, Dist: Bilaspur – (C.G.)

Vs.

RESPONDENTS

1. State of Chhattisgarh through – The Secretary Panchayat & Social Welfare Department, Raipur, Mantralaya, Raipur – (C.G.)

2. The Chief Executive Officer, Zila Panchayat Kabirdham District – Kabirdham

3. The Chief Executive Officer, Janpad Panchayat Pandariya District – Kabirdham

4. The Block Education Officer Pandariya. Dist: Kabirdham – (C.G.)

Writ Petition No. 2435 of 2006

PETITIONER Bhaw Das 30 years S/o Shri Dukalu Ram, R/o Dalpurwa, Teh - Pandariya, Dist: Kabirdham – (C.G.)

Vs.

RESPONDENTS

1. State of Chhattisgarh through – The Secretary Panchayat & Social Welfare Department, Raipur, Mantralaya, Raipur – (C.G.)
2. The Chief Executive Officer, Zila Panchayat Kabirdham District – Kabirdham- (C.G.)
3. The Chief Executive Officer, Janpad Panchayat Pandariya Dist – Kabirdham (C.G.)
4. The Block Education Officer Pandariya. Dist: Kabirdham – (C.G.)

Writ Petition No. 2434 of 2006

PETITIONER Ram Awtar Sahu, 28 years S/o Shri Bishram Sahu, R/o Dau Kapa, Tehsil – Lormi, Dist: Bilaspur – (C.G.)

Vs.

RESPONDENTS

1. State of Chhattisgarh through – The Secretary Panchayat & Social Welfare Department, Raipur, Mantralaya, Raipur – (C.G.)
2. The Chief Executive Officer, Zila Panchayat Kabirdham District – Kabirdham- (C.G.)
3. The Chief Executive Officer, Janpad Panchayat Pandariya Dist – Kabirdham (C.G.)
4. The Block Education Officer Pandariya. Dist: Kabirdham – (C.G.)

Writ Petition No. 2437 of 2006

PETITIONER Nohar Singh, 28 years S/o Shri Labho Singh, R/o Patharra, Tehsil – Lormi, Dist: Bilaspur – (C.G.)

Vs.

RESPONDENTS

1. State of Chhattisgarh through – The Secretary Panchayat & Social Welfare Department, Raipur, Mantralaya, Raipur – (C.G.)
2. The Chief Executive Officer, Zila Panchayat Kabirdham District – Kabirdham- (C.G.)
3. The Chief Executive Officer, Janpad Panchayat Pandariya Dist – Kabirdham (C.G.)
4. The Block Education Officer Pandariya. Dist: Kabirdham – (C.G.)

Writ Petition No. 2438 of 2006

PETITIONER

Smt. Dharmin Sahu, 32 years W/o Shri J.R. Sahu, R/o Muchhel, Tehsil - Lormi, Dist: Bilaspur – (C.G.)

Vs.

RESPONDENTS

1. State of Chhattisgarh through – The Secretary Panchayat & Social Welfare Department, Raipur, Mantralaya, Raipur – (C.G.)
2. The Chief Executive Officer, Zila Panchayat Kabirdham District – Kabirdham- (C.G.)
3. The Chief Executive Officer, Janpad Panchayat Pandariya Dist – Kabirdham (C.G.)
4. The Block Education Officer Pandariya. Dist: Kabirdham – (C.G.)

Writ Petition No. 2432 of 2006

PETITIONER

Janak Ram Sahu, 20 years S/o Shri Kumbh Lal Sahu, R/o Dau Kapa, Tehsil – Lormi, Dist: Bilaspur – (C.G.)

Vs.

RESPONDENTS

1. State of Chhattisgarh through – The Secretary Panchayat & Social Welfare Department, Raipur, Mantralaya, Raipur – (C.G.)
2. The Chief Executive Officer, Zila Panchayat Kabirdham District – Kabirdham- (C.G.)
3. The Chief Executive Officer, Janpad Panchayat Pandariya Dist – Kabirdham (C.G.)

4. The Block Education Officer Pandariya. Dist: Kabirdham – (C.G.)

Writ Petition No. 2433 of 2006

PETITIONER Sukh Chand, 21 years S/o Shri Jeevan Lal, R/o Village Koalari, Teh - Pandariya, Dist: Kabirdham – (C.G.)

Vs.

RESPONDENTS

1. State of Chhattisgarh through – The Secretary Panchayat & Social Welfare Department, Raipur, Mantralaya, Raipur – (C.G.)
2. The Chief Executive Officer, Zila Panchayat Kabirdham District – Kabirdham- (C.G.)
3. The Chief Executive Officer, Janpad Panchayat Pandariya Dist – Kabirdham (C.G.)
4. The Block Education Officer Pandariya. Dist: Kabirdham – (C.G.)

Present : Shri Prafull Bharat and Shri Anoop Majumdar, learned counsel for the petitioners.
Shri Yashwant Singh, learned G.A. for the State of C.G.

ORAL ORDER
(Passed on 22nd June 2006)

A short but a question of general importance which falls for decision-making in this batch of writ petitions is whether the Certificate of Madhyama (Visharad) Part II and the Certificate of Uttama (Sahitya Ratna) Part III, both issued by the Hindi Sahitya Sammelan, Prayag, are equivalent to Higher Secondary School Examination and Degree Examination respectively for the purpose of recruitment to the post of Shiksha Karmi Grade-II and Shiksha Karmi Grade-III. Whereas, according to the petitioners, they are equivalent qualifications, according to the respondent State authorities and other respondents they are not.

(2) The undivided State of Madhya Pradesh, in exercise of the powers conferred by Clause (b) of Section 2 of the Madhya Pradesh recognized Act, 1937, have made rules called Madhya Pradesh Panchayat Shiksha Karmis (Recruitment and Conditions of Service) Rules, 1997 (for short 'the Rules'). It is the common case of all the parties that under the Rules the prescribed educational qualification for Shiksha Karmi Grade II is a degree in any discipline whereas for the post of Shiksha Karmi Grade III, the prescribed qualification is passing Higher Secondary School Examination. But, it is the case of the petitioners that Madhyama (Visharad) Part II issued by the Hindi Sahitya Sammelan, Prayag, is equivalent to Higher Secondary School Examination. Similarly, it is the case of the petitioners that the Uttama (Sahitya Ratna) Part III Certificate issued by the Hindi Sahitya Sammelan, Prayag, is equivalent to a Degree. So claiming, the petitioners complain that the respondent – Janpad Panchayats are not justified in refusing appointments to the petitioners on the ground that the above certificates issued by the Hindi Sahitya Sammelan, Prayag, is not equivalent to the Certificate of Higher Secondary School Examination or the Degree, as the case may be.

(3) In the course of arguments, learned counsel appearing for the petitioners would contend that after the Rules came into force, number of instances could be cited where various Janpad Panchayats recognizing the above-noted certificates issued by Hindi Sahitya Sammelan, Prayag as equivalents to the Certificate of Higher Secondary School Examination and the Degree offered appointments to the certificate holders and, therefore, the concerned Janpad Panchayats ought to have recognized the above certificates issued by the Hindi Sahitya Sammelan, Prayag, as equivalents to the prescribed qualifications under the Rules. They would

contend that the impugned refusal on the specious ground that the said certificates are not equivalents is totally arbitrary and unreasonable.

(4) On the other hand, it was contended by the learned Government Advocate appearing for the State and State authorities that there is absolutely no material to show that the State Government at any point of time recognized the above-noted certificates issued by the Hindi Sahitya Sammelan, Prayag, as equivalent to the prescribed educational qualifications under the Rules. In reply, it was submitted by the learned counsel appearing for the petitioners that in terms of the definition of the "recognized examination" as defined in Clause (b) of Section 2 of the Madhya Pradesh Recognized Examinations Act, 1937 read with the schedule thereto, the aforementioned certificates issued by the Hindi Sahitya Sammelan, Prayag, are "recognized examinations" and, therefore, the recruiting agencies under the Rules are bound by that recognition and they cannot refuse to consider the above-noted certificates issued by the Hindi Sahitya Sammelan, Prayag.

(5) The Rules are framed by the State Government of Madhya Pradesh as a donee of the statutory power under the provisions of the Madhya Pradesh Panchayat Raj Adhiniyam, 1993. The authority and the competence of the State Government to prescribe the educational qualifications for the post of Shiksha Karmis Grade II and Grade III is not questioned before me and it could not be questioned. The prescribed qualification under the Rules for the post of Shiksha Karmi Grade III is the Certificate of Higher Secondary School Examination and for the post of Shiksha Karmi Grade II the prescribed qualification is a Degree in any discipline. It is well settled that it is not for the Court nor for anyone else to

prescribe or dictate the terms to the recruiting agency as to which qualification could be an equivalent qualification prescribed under the recruitment Rules. It is the prerogative of the Rule-making Authority to recognize any other qualification which is not specified under the recruitment Rules as unequivalent qualification. Since under the Madhya Pradesh Panchayat Raj Adhiniyam, 1993, only the State Government is empowered to frame recruitment Rules, only the State Government can recognize any other qualification as equivalent qualification to the prescribed qualification and it is not for any other external agency to recognize. Simply because in previous years, may be during the current year also, certain Janpad Panchayats have appointed persons possessing the aforementioned certificates issued by the Hindi Sahitya Sammelan, Prayag as Shiksha Karmi Grade II or Shiksha Karmi Grade III in violation of the mandatory provisions of the Rules, that circumstance itself would not be a justification for the Court to issue a *mandamus* to a recruiting agency like the Janpad Panchayat to make appointment in breach of the statutory Rules. I say this, because, it is well settled that under no circumstance writ of *mendamus* shall issue to an authority to do something in breach of the public law requirement and/or in violation of the mandatory provisions of the statutory Rules. At this stage itself, it needs to be noted that the above claim of the learned counsel for the petitioners that even those persons possessing the certificate issued by the Hindi Sahitya Sammelan, Prayag were appointed as Shiksha Karmis Grade II and Grade III was hotly disputed by the learned Government Advocate appearing for the State during the argument. There is no need for this Court to resolve this factual controversy, because, whatever may be the finding over this factual controversy, that will not have any bearing on the

decision-making in the case. In the circumstance, I cannot take any exception to the respondents recruiting agencies not to consider the case of the petitioners for appointment to the post of Shiksha Karmis on the ground that they do not possess the prescribed educational qualifications and that the certificates issued by the Hindi Sahitya Sammelan, Prayag are not equivalent to the prescribed qualifications. It needs to be noticed that the recognized qualification need not necessarily be an equivalent qualification. Simply because the above certificates issued by the Hindi Sahitya Sammelan, Prayag could be regarded as recognized examinations within the terms of the Madhya Pradesh Recognized Examinations Act, 1937, they could not be regarded as the qualifications equivalent to the prescribed qualifications under the Rules in the absence of any order or notification issued by the Government recognizing those certificates as an equivalents to the prescribed qualifications. The Writ petitions are, therefore, dismissed. No costs.

Sd/-
Chief Justice